

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 1755 of 2006

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE MD SHAH

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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SUKVEER SINGH PUNIA SON OF MR.PARASRAM PUNIA -
Petitioner(s)
Versus
UNION OF INDIA & 2 - Respondent(s)

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Appearance :

MR PARMAR for MR PH PATHAK for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 22/06/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

Heard learned counsel Mr.Parmar for the petitioner.

The petitioner has challenged in this petition the impugned judgment and order dated 31.8.2005 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short "Tribunal") passed in O.A. No.669 of 2004 by which learned Single Administrative Member of the Tribunal dismissed the application.

Learned counsel, Mr.Parmar for Mr.Pathak, for the petitioner raised two contentions. First, that the learned Single Administrative Member of the Tribunal had no jurisdiction. He submitted that in absence of Judicial Member, the learned Administrative Member of the Tribunal ought not to have decided his application. It is clear from the impugned judgment and order passed by the learned Single Administrative Member of the Tribunal that Mr.Pathak for the applicant was heard in the matter. At that time, Mr.Pathak has not raised any such objection. It is only after the petition was dismissed, such technical objection tried to be raised. When it was not raised before the learned Single Administrative Member of the Tribunal, then for the first time, in a petition filed under Article 227 of the Constitution of India, we would not permit Mr.Pathak to raise this contention. Though this

petition is labelled as petition both under Articles 226 and 227 of the Constitution, strictly speaking it is a petition under Article 227 of the Constitution, the scope of which is very narrow and limited.

Second submission made by Mr.Parmar for the petitioner was that the applicant remained absent from duty after informing his superior officer. In spite of it, the penalty of stoppage of increments for 2 years without cumulative effect was passed and this aspect was not considered by the Tribunal. There is no substance in this submission. It is clear from the impugned judgment and order passed by the learned Tribunal that the petitioner had remained absent from duty without informing his superior officers. These are findings of facts recorded by the learned Tribunal in its judgment, which cannot be interfered by this court in its supervisory jurisdiction under Article 227 of the Constitution.

In view of the above discussion, this petition fails and is hereby dismissed. Rule discharged with no order as to costs.

(B.J.SHETHNA, J.)

(M.D.SHAH, J.)

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